

STATE OF SOUTH CAROLINA

(Caption of Case)

Application of JACABB Utilities, LLC for approval of an expansion of its existing water service area to include certain portions of Oconee County and request approval of the Water System Asset Purchase Agreement with Harts Cove and Tory Pointe HOA's

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NOV 22 2013

PSC SC
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(Please type or print)

Submitted by: James S. Eakes

Address: Allen and Eakes

PO Box 1405

Anderson, SC 29622

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

COVER SHEET

DOCKET

NUMBER: 2013 - 386 - W

COPY

Posted: too

Dept: SA

Date: 12/2/13

Time: 3:44

SC Bar Number: SC Bar # 1820

Telephone: 864-224-1681

Fax: 864-234-8411

Other:

Email: sheilat@goldieassociates.com

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

DOCKETING INFORMATION (Check all that apply)

☐ Emergency Relief demanded in petition ☐ Request for item to be placed on Commission's Agenda expeditiously

☐ Other:

INDUSTRY (Check one)	NATURE OF ACTION (Check all that apply)			
<input type="checkbox"/> Electric	<input type="checkbox"/> Affidavit	<input type="checkbox"/> Letter	<input type="checkbox"/> Request	
<input type="checkbox"/> Electric/Gas	<input type="checkbox"/> Agreement	<input type="checkbox"/> Memorandum	<input type="checkbox"/> Request for Certification	
<input type="checkbox"/> Electric/Telecommunications	<input type="checkbox"/> Answer	<input type="checkbox"/> Motion	<input type="checkbox"/> Request for Investigation	
<input type="checkbox"/> Electric/Water	<input type="checkbox"/> Appellate Review	<input type="checkbox"/> Objection	<input type="checkbox"/> Resale Agreement	
<input type="checkbox"/> Electric/Water/Telecom.	<input checked="" type="checkbox"/> Application	<input type="checkbox"/> Petition	<input type="checkbox"/> Resale Amendment	
<input type="checkbox"/> Electric/Water/Sewer	<input type="checkbox"/> Brief	<input type="checkbox"/> Petition for Reconsideration	<input type="checkbox"/> Reservation Letter	
<input type="checkbox"/> Gas	<input type="checkbox"/> Certificate	<input type="checkbox"/> Petition for Rulemaking	<input type="checkbox"/> Response	
<input type="checkbox"/> Railroad	<input type="checkbox"/> Comments	<input type="checkbox"/> Petition for Rule to Show Cause	<input type="checkbox"/> Response to Discovery	
<input type="checkbox"/> Sewer	<input type="checkbox"/> Complaint	<input type="checkbox"/> Petition to Intervene	<input type="checkbox"/> Return to Petition	
<input type="checkbox"/> Telecommunications	<input type="checkbox"/> Consent Order	<input type="checkbox"/> Petition to Intervene Out of Time	<input type="checkbox"/> Stipulation	
<input type="checkbox"/> Transportation	<input type="checkbox"/> Discovery	<input type="checkbox"/> Prefiled Testimony	<input type="checkbox"/> Subpoena	
<input checked="" type="checkbox"/> Water	<input type="checkbox"/> Exhibit	<input type="checkbox"/> Promotion	<input type="checkbox"/> Tariff	
<input type="checkbox"/> Water/Sewer	<input type="checkbox"/> Expedited Consideration	<input type="checkbox"/> Proposed Order	<input type="checkbox"/> Other:	
<input type="checkbox"/> Administrative Matter	<input type="checkbox"/> Interconnection Agreement	<input type="checkbox"/> Protest		
<input type="checkbox"/> Other:	<input type="checkbox"/> Interconnection Amendment	<input type="checkbox"/> Publisher's Affidavit		
	<input type="checkbox"/> Late-Filed Exhibit	<input type="checkbox"/> Report		

ALLEN AND EAKES

ATTORNEYS AT LAW

P.O. BOX 1405

ANDERSON, S. C. 29622

RICHARD K. ALLEN, JR.*
JAMES S. EAKES*

THOMAS ALLEN (1981-1993)
RICHARD K. ALLEN (1921-1982)

December 2, 2013

TEL. (864) 224-1681
114 WEST ORR STREET
ZIP 29625
FAX (864) 231-8411

* CERTIFIED CIVIL COURT MEDIATOR

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DEC 02 2013

PSC SC
MAIL / DMS

The Honorable Jocelyn D. Boyd
Chief Clerk/Administrator
Public Service Commission of South Carolina
101 Executive Center Drive
Columbia, SC 29210

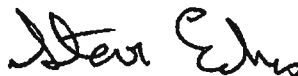
RE: Application of JACABB Utilities, LLC for approval of an expansion of its existing water service area to include certain portions of Oconee County and request approval of the Water System Asset Purchase Agreement with Harts Cove and Tory Pointe Homeowner's Associations

Dear Ms. Boyd:

I am writing to request a waiver of Public Service Commission Regulation 103-712.4 regarding the above-referenced application submitted to the South Carolina Public Service Commission for approval. The applicant, JACABB Utilities, LLC, is not seeking a new rate, and this is not a "full blown" rate case. JACABB is simply seeking approval of its contract and first amendment with Harts Cove and Tory Pointe Home Owners' Associations that will allow it to charge rates already in existence and approved previously by the Commission. JACABB respectfully requests waiver of the provision of Regulation 103-712.4 for these reasons.

If you require anything further, please do not hesitate to contact me and, with best regards, I remain,

Allen and Eakes



James S. Eakes

cc: Courtney Edwards, Esquire
Steve Goldie

ALLEN AND EAKES

ATTORNEYS AT LAW

P.O. BOX 1405

ANDERSON, S. C. 29622

RICHARD K. ALLEN, JR.*
JAMES S. EAKES*

THOMAS ALLEN (1881-1963)
RICHARD K. ALLEN (1921-1982)

* CERTIFIED CIVIL COURT MEDIATOR

TEL. (864) 224-1681
114 WEST ORR STREET
ZIP 29625
FAX (864) 231-8411

November 19, 2013

VIA - FIRST CLASS MAIL

The Honorable Jocelyn D. Boyd
Chief Clerk/Administrator
Public Service Commission of South Carolina
101 Executive Center Drive
Columbia, SC 29210

RECEIVED

NOV 22 2013

**PSC SC
MAIL / DMS**

RE: Application of JACABB Utilities, LLC for approval of an expansion of its existing water service area to include certain portions of Oconee County and request approval of the Water System Asset Purchase Agreement with Harts Cove and Tory Pointe Homeowner's Associations

Dear Ms. Boyd:

Enclosed for filing is the Application of JACABB Utilities, LLC in the above reference matter. I would appreciate your acknowledging receipt of this document by date-stamping the extra copy of this letter that is enclosed and returning it to me via first class mail.

The required Notice of Intent was filed with the PSC on October 17, 2013.

By copy of this letter, I am serving the Office of Regulatory Staff and enclose a certificate to that effect. If you have any questions or need additional information, please do not hesitate to contact me.

Sincerely,

RECEIVED

DEC 02 2013

**PSC SC
MAIL / DMS**

ALLEN AND EAKES

James S. Eakes

Enclosure

cc: Dukes Scott, Executive Director, ORS
Stephen R. Goldie, JACABB Utilities, LLC

BEFORE
THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2013- 386 -W

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NOV 22 2013

PSC SC
MAIL / DMS

IN RE:

Application of JACABB Utilities, LLC for)
approval of an expansion of its existing)
water service area to include certain portions)
of Oconee County and request the approval)
of the Water System Asset Purchase)
Agreement with Harts Cove and Tory Pointe)
Homeowner's Associations.)
_____)

CERTIFICATE OF SERVICE

This is to certify that I have caused to be served this day one (1) copy of the
Application by placing same in the care and custody of the United States Postal Service
with first class postage affixed thereto and addressed as follows:

Dukes Scott
Office of Regulatory Staff
1401 Main Street, Suite 900
Columbia, SC 29201



Sheila J. Tinsley

Seneca, South Carolina
This 20 day of November 2013

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2013-386 -W

RECEIVED

NOV 22 2013

PSC SC
MAIL/DMS

IN RE:

Application of JACABB Utilities, LLC)
for approval of an expansion of its existing)
water service area to include certain portions))
of Oconee County and request approval)
of the Water System Asset Purchase)
Agreement with Harts Cove and Tory)
Pointe Homeowner's Associations)
_____)

APPLICATION

JACABB Utilities, LLC ("Applicant" or "Utility"), pursuant to S.C. Code Ann §58-5-210 and Vol. 26 S.C. Code Ann. Regs. RR. 103-704 and 103-743, hereby applies for an expansion of its authorized water service area to include certain portions of Oconee County, South Carolina and request approval of the Water System Asset Purchase Agreement with Harts Cove and Tory Pointe Homeowner's Association. In support of this Application, Applicant would respectively show as follows:

1. Applicant is a public utility currently authorized to operate water and wastewater systems under the jurisdiction of the Commission in Oconee County, as well as certain other counties in this state. Its corporate charter is presently on file with the Commission and an appropriate bond has been posted with same. A schedule of rates and charges for Applicant's water service has previously been approved by Commission Order No. 2008-697, Order Exhibit 2, in Docket No. 2008-173-W.

2. The water service area for which expansion is sought (the "Proposed Service Area") is located in Oconee County, South Carolina, includes multi-family residences, a clubhouse, pool, and outside irrigation and faucets in the Harts Cove and Tory Pointe Subdivision and is controlled by The Harts Cove Homeowner's Association and Tory Pointe Homeowner's Association ("HOAs").

3. The Applicant also seeks approval of an agreement entered into between Applicant and Harts Cove Homeowner's Association and Tory Pointe Homeowner's Association dated June 13, 2013 ("Agreement"), a copy of which is attached hereto and incorporated herein by reference as Exhibit A. The Agreement is conditioned upon approval of the Application by this Commission and approval by the South Carolina Department of Health and Environmental Control (SCDHEC).

4. Clemson University is authorized to serve the Proposed Service Area and has agreed to only serve this multi-family subdivision by means of a master meter. A Letter of Intent to Contract with JACABB Utilities, LLC for continued delivery of potable water to the Proposed Service Area is attached as Exhibit C.

5. Applicant requests that it be allowed to provide service in the Proposed Service Area pursuant to the rates and charges set forth in its existing monthly rate scheduled as approved under 2008-697, Order Exhibit 2, in Docket No. 2008-173-W.

6. Applicant further requests approval of Amendment One to the Water System Asset Purchase Agreement, Exhibit B, with Harts Cove and Tory Pointe Homeowner's Association that allows the Applicant to bill the customers in the Proposed Service Area for sewer service and to charge a monthly billing fee of \$2.50 to each customer for this

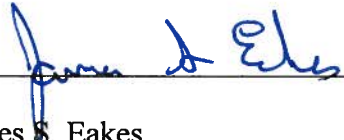
service. The sewer service is provided by Seneca Light & Water and is based on water usage from the master meter with one monthly invoice to the HOAs for sewer service.

7. The Water System Asset Purchase Agreement with Harts Cove and Tory Pointe Homeowner's Association provides, *inter alia*, that the HOAs will deliver and execute a Bill of Sale and all required easements to the Applicant for the Harts Cove and Tory Pointe water system. Performance of the Agreement is conditioned upon its approval by this Commission.

8. Applicant submits that the public convenience and necessity will be served by the approval of this Application. Applicant further requests that no hearing in this matter is required.

9. Applicant requests the Commission approve the attached Agreement, Amendment One to the Agreement and the expansion of the water service territory for JACABB Utilities, LLC.

10. WHEREFORE, having fully set forth its Application, Applicant prays that the Commission grant the requested expansion of its water service territory to include the entirety of the Proposed Service Area in accordance with the terms and conditions of the foregoing agreements; that the terms, conditions, rates and charges approved by the Commission for Applicant's currently authorized water service territory and in effect from time to time, and as provided for in the agreements, apply to the provision of water service in the Proposed Service Area; that, if no intervention is filed, hearing on the within matter be waived and that Applicant be granted such other and further relief as the Commission may deem just and proper.



James S. Eakes
Allen and Eakes
PO Box 1405
Anderson, SC 29622
(864) 224-1681
S.C. Bar # 1820
Attorney for Applicant

Anderson, South Carolina
This 19 day of November 2013

JSE #404

EXHIBIT A

**Water System Asset Purchase Agreement with Harts Cove and Tory Pointe
Homeowner's Association**

STATE OF SOUTH CAROLINA)
)
COUNTY OF OCONEE) WATER SYSTEM
) ASSET PURCHASE
) AGREEMENT

THIS WATER SYSTEM ASSET PURCHASE AGREEMENT (hereinafter the "Agreement") is made and entered into this 12th day of June, 2013, by and between Harts Cove and Tory Pointe Home Owner's Associations ("HOA"), associations organized and existing under the laws of South Carolina, hereinafter referred to as "Sellers", and JACABB Utilities, LLC, a South Carolina limited liability company, hereinafter referred to as "Buyer" or "Utility".

RECITALS

1. The Sellers own the water system serving the owners in Harts Cove and Tory Pointe (the "Development") in Oconee County, South Carolina. This water system is hereinafter referred to as the "System".
2. The Sellers desire to sell and the Buyer desires to purchase all of the properties, assets, and rights of the Sellers in and to the System, subject to the prior approval by the South Carolina Department of Health and Environmental Control ("DHEC") and the South Carolina Public Service Commission ("PSC").
3. The Sellers are willing to sell and to transfer such properties, assets, and rights to the Buyer in consideration of the purchase price set forth in Section Two hereof and in consideration of the Buyer assuming and agreeing to be responsible for the operation and maintenance of the System.

In consideration of the mutual covenants and promises contained in this Agreement, the parties hereto agree as follows:

SECTION ONE
SUBJECT MATTER

Subject to the terms and conditions of this Agreement and the recitals hereinabove, the Sellers agree to sell and deliver to the Buyer, and the Buyer agrees to purchase and to take from the Sellers at Closing;

1. All of the properties, assets, licenses and permits, contracts, accounts receivable, and other rights of Sellers of every kind and description, real.

personal, mixed, tangible, and intangible, wherever situated, utilized in the operation of the Harts Cove and Tory Pointe Water System in Oconee County, South Carolina, and as listed on the attached Exhibit "A", which is incorporated herein by reference (the "Assets").

2. At Closing, the Buyer shall assume and thereafter be responsible for the maintenance and operation of the System.
3. Up until the Date of Closing, Sellers shall be responsible for the continued operation of the System.

SECTION TWO **CONSIDERATION**

At Closing, as consideration for the sale and transfer of the System to the Buyer, the Buyer agrees to pay to Sellers the Purchase Price of One and no/100 (\$1.00) Dollar.

SECTION THREE **CONTINGENCIES**

This Agreement is made subject to the following contingencies:

1. This Agreement is specifically conditioned upon, and expressly subject to, the final approval of this sale prior to Closing by both the South Carolina Department of Health and Environmental Control and the South Carolina Public Service Commission. Within 30 days of the execution date of this Agreement, Utility will apply to the PSC for approval. All terms and conditions contained herein are subject to Utility receiving said approval from the PSC and DHEC.
2. This agreement is contingent upon having an agreement with Clemson University to provide water for the subdivision through a master meter.
3. The conveyance of the Assets free and clear of all liens and encumbrances.
4. Buyer being able to obtain all permits and licenses necessary for the operation and maintenance of the System.
5. All existing meters are functioning properly and sending the correct readings.
6. Clubhouse, pool, irrigation points, and all outside faucets have meters installed. Utility must approve of any meter used and its installation.
7. Meter must also be installed at the sewer lift station(s).

8. System tested to ensure compliance and no water quality issues. Any and all issues to be resolved by the HOA prior to transfer to Utility.
9. HOA to pay for the Utility's training on the sub-metering system.

SECTION FOUR **CLOSING**

2. Closing Date. Unless the Closing Date is extended by the mutual consent of the parties, the Closing will be held within one hundred and sixty (160) days after the execution of this Agreement, or sooner if the required approvals are obtained and the other conditions and contingencies are met. The parties may mutually agree to extend the Closing Date by entering into an amendment to this Agreement in writing.
3. Closing. On the Closing Date, the following shall occur, subject to the satisfaction of the terms and conditions of this Agreement.
 - a. The Sellers shall execute and deliver to the Buyer an assignment of leases or rental agreements (if any) affecting the Assets.
 - b. The Sellers shall execute and deliver a Bill of Sale and/or a Warranty Deed transferring all the Assets of the System to the Buyer free and clear of all liens and encumbrances.
 - c. The Sellers shall transfer and convey to Buyer right-of-way easements, access easements and such other easements as are necessary for the operation of the System by Buyer.
 - d. The Sellers shall deliver possession of and access to the System and all of the Assets purchased by Buyer at Closing.
 - e. The Closing costs shall be paid by the parties as follows:
Sellers: To pay its own attorney's fees.
Buyer: To pay its own attorney's fees, any recording fees associated with the Closing and any other acquisition costs which it incurs.
 - g. The Sellers shall deliver to Buyer at Closing all records pertaining to and necessary for the operation of the System, all records pertaining to

the Assets being purchased, and all other information on file regarding the System.

- h. The Sellers shall provide an assignment of the right to provide water service to all property owners of the Subdivision.
- i. The Sellers shall provide any required documentation to transfer the sub-metering system to the Buyer.

SECTION FIVE
SELLERS'S REPRESENTATIONS AND WARRANTIES

Sellers represent and warrant to, and agree with, Buyer as follows:

1. Sellers are associations duly organized, validly existing, and in good standing under the laws of South Carolina, with full corporate power and authority to own the property and to conduct the business that they presently conduct.
2. There are no actions, suits, claims, investigations, or legal or administrative or arbitration proceedings pending against or involving Sellers, or to Sellers' knowledge threatened against it.
3. Until the Closing Sellers will continue to operate and conduct the System in the usual, regular, and ordinary manner in all material respects. Sellers have no knowledge of any facts or circumstances which would cause Sellers to believe that there would be any material adverse changes in the operation of the System or with respect to the Assets being sold prior to the Date of Closing.
4. Sellers warrant that they have paid any and all payroll, sales, use, workers' compensation, or other such taxes (to the extent that Sellers are obligated to pay any such taxes) that the Sellers would owe on or before the date and time of Closing.
5. Sellers warrant and represent that the Assets to be transferred are debt free and that, as of Closing, there shall be no liens, encumbrances, or claims of any kind against said Assets to be transferred, and that there are no other parties claiming an interest in said Assets.

6. From the date of this Agreement through the Closing Sellers shall keep all of the Assets in a normal state of repair and operating efficiency, customary in the business.
7. Sellers have the legal power and right to enter into and perform this Agreement. The consummation of the transactions contemplated by this Agreement will not violate Sellers' By-laws, and, to the best of Sellers' knowledge, will not violate any law, statute or regulation to which Sellers are subject.
8. All financial statements of the System furnished to Buyer by Sellers under this Agreement are true, correct, and complete statements of the financial condition of the System as, at, and for the period specified.
9. Sellers have filed all federal, state, county and local income, withholding, FICA, excise, property, sales, and use, and other tax returns that are required to be filed by it, and have paid all taxes due for periods prior to the date of this Agreement. There are no facts or circumstances as of the date of this Agreement known to Sellers that might serve as the basis for the creation of liens or liabilities against the Assets being sold hereof.
10. Sellers, as of Closing, shall provide good and marketable title as hereinabove agreed to all the properties, Assets, and rights to be delivered by it to Buyer free of all liens, charges, encumbrances except (1) taxes constituting a lien but not yet due and payable, (2) defects or irregularities of title or encumbrances that are not such as to interfere materially with the operation or use or materially reduce the value of any such property, asset, or right or materially affect title to the property, and (3) such other defects or irregularities of title or liens or encumbrances as Buyer may have waived in writing or as are contemplated above in Sections Three and Four and agreed to by Sellers' and Buyer's execution hereby.
11. Sellers have not employed any broker or agent with respect to the sale and purchase contemplated in this Agreement, nor taken any other action, nor will Sellers take any such action, that would cause the Buyer to become liable for the payment of any finder's fee, broker's fee, or commission.

12. As of the Closing, Sellers should hold all licenses and permits necessary or appropriate for the operation of the System, and the licenses and permits shall be current and in good standing.
13. The consummation of this Agreement does not violate any Agreement to which the Sellers are subject.
14. All Assets are sold and transferred in "as is" condition as of the Date of Closing.

SECTION SIX
BUYER'S REPRESENTATIONS AND WARRANTIES

Buyer represents, warrants to, and agrees with Sellers as follows:

1. Buyer is a limited liability company duly organized, validly existing, and in good standing under the laws of South Carolina and has full power to carry on its business as now being conducted.
2. The execution of this Agreement and all documents provided for in this Agreement by Buyer and its delivery to Sellers have been duly authorized by Buyer's members, and no further action is necessary on Buyer's part to make this Agreement valid and binding on Buyer in accordance with its terms.
3. It will be in a position financially to fulfill the terms of this Agreement as of the Date of Closing.
4. It will use its best efforts in the operation of the System so as to meet all obligations required by this Agreement.
5. The Buyer will assume the operation of the System at Closing so as to meet all obligations required by this Agreement and those continuing after Closing.
6. Buyer has not employed any broker or agent with respect to the sale and purchase contemplated by this Agreement, nor taken any other action, nor will Buyer take any such action, that would cause Sellers to become liable for the payment of any finder's fee, broker's fee, or commission.

SECTION SEVEN
OTHER AGREEMENTS

1. The Buyer is not assuming any liabilities in connection with the System that were incurred prior to the Date of Closing.

2. Pending Closing, the Sellers shall have the sole responsibility for the operation and management of the System as a going concern.
3. The Sellers shall indemnify and hold the Buyer harmless from and against any and all claims or actions which may be brought against the Buyer arising out of the ownership or operation of the System where such claims or actions relate to matters occurring prior to the Date of Closing. This indemnification shall include reasonable attorney's fees and costs incurred by Buyer.
4. The Buyer shall indemnify and hold the Sellers harmless from and against any and all claims or actions which may be brought against the Sellers arising out of the ownership or operation of the System where such claims or actions related to matters occurring after the Date of Closing. This indemnification shall include reasonable attorney's fees and costs incurred by Sellers.
5. Sellers further agree to indemnify and hold the Buyer and its successors and assigns harmless from and against any and all liabilities, claims, actions, suits, and judgments existing prior to the Closing and not expressly assumed by the Buyer in writing, and any costs, expenses, and reasonable attorney's fees incident to same, and incurred by the Buyer in defense of same. The Buyer agrees to provide notice of any such claim to the Sellers within (10) days of it being made, and to allow the Sellers the right to defend the claim prior to paying it or making any claim to the Sellers regarding it. This indemnification and agreement to hold the Buyer harmless shall apply to, but not be limited to, the following:
 - a. All liabilities of the Sellers and the System, of any kind or nature, whether accrued, absolute, contingent, or otherwise existing at or prior to the Closing Date;
 - b. Any tort liability of any kind or nature arising from a tort or legal wrong committed by Sellers or its employees or agents, prior to the Date of Closing;
 - c. Any violation by Sellers or Sellers' agents of any laws, statutes, rules, regulations, including those related to toxic or hazardous substances, prior to the Date of Closing; and

- d. All actions, suits, proceedings, demands, assessments, judgments, reasonable costs and expenses incident to any of the foregoing.
6. Pending the closing of this transaction, Buyer shall exercise no control over the operation of the System. The operation of Sellers shall be Sellers' sole responsibility up to and including the Date of Closing, or any extension of it, and all risks of loss of Sellers during that time shall be borne by Sellers.
7. Sellers shall be responsible for the payment of all utility services, such as metered water, incurred by it with respect to the System up to the date of Closing. Buyer shall be responsible to have such utility services transferred to its name from and after the date of Closing and to be responsible for the payment of such services from and after Closing.

SECTION EIGHT
WATER USER'S AGREEMENT

1. Utility shall own and maintain the 6" or 8" DIP water main that is used for the distribution of water to the water service lines. The water main is shown on the utility plan drawings in Exhibit C.
2. Utility shall own the water service lines ("utility service lines") up to and including the water meters located in the utility closets within all of the residential building units (i.e., condominiums) in the Development. The HOA shall, however, be responsible to maintain, at its own expense, said service lines from the Utility's water main up to the meters within all of the said residential building units and the HOA shall be responsible for all repairs to said service lines. The HOA agrees to notify the Utility of all repairs and maintenance within twenty-four (24) hours of the work performed and agrees to allow Utility to inspect all work done.
3. It is further agreed that Utility shall have the right, upon reasonable notice, to inspect, maintain, test, repair and replace the meters in any of the residential building units.
4. The Utility shall in no event be responsible for maintaining the service lines to the meters, or any other lines owned or maintained by the HOA, and the Utility shall not be responsible for defects in the service lines or other lines or

fixtures located within each condominium, nor for damages by water escaping therefrom.

5. The HOA agrees to maintain the water service lines within all the building units in good condition at all times at the expense of the HOA.
6. The HOA shall agree to indemnify and hold the Utility harmless from any loss or damage to any person, owner, renter, or entity that may directly or indirectly be occasioned by use or maintenance of the service lines, meters, and/or connection to the System's water main, including leaks. This indemnity and hold harmless include the payment of Utilities attorney's fees and costs.
7. As necessity may arise in case of a break in a water main, pipe, or other conduit, or in case of an emergency or for other unavoidable cause, the Utility may temporarily cut off the water supply, without notice, in order to make necessary repairs, connections, or the like. In the event of discontinuance of water service, the Utility shall not be liable for any damages or inconvenience suffer by the HOA, or for any claim against it at any time for interruption in service, lessening of the supply, inadequate pressure, or for causes reasonably beyond the Utility's control.
8. The HOA agrees to purchase from the Utility, and the Utility agrees to sell and deliver to the HOA, water service required for HOA premises all in accordance with the rates and charges applicable to such service, as legally established, and on file with the South Carolina Public Service Commission and in accordance with the rules and regulations of the South Carolina Public Service Commission.
9. The HOA agrees to pay, when due, all charges made by the Utility for water service provided to the property described herein, including any assessments levied or to be levied against the property described herein and any connection or reconnection charges that have not been previously paid.
10. A late payment charge of one and one-half percent (1 ½%) shall be added to any unpaid balance not paid within twenty-five (25) days of the billing date.

SECTION NINE
EXHIBITS INCORPORATED BY REFERENCE

All exhibits referred to in this Agreement are incorporated herein by reference for all purposes.

SECTION TEN
ADDITIONAL DOCUMENTS

The parties agree to execute all documents as may be necessary to carry out the intent and provisions of this Agreement.

SECTION ELEVEN
GENERAL

1. Prior to the commencement of utility service for owners not already having water service as of the date of Closing, owners within the Subdivision shall be responsible for the payment to Utility of a water tap-on fee, at the rate in effect for tap-on fees at that time, which fee will have been previously approved by the PSC. Such fees, usage and all other incidental rates and charges shall be rendered by Utility in accordance with Utility's rates, rules, regulations and conditions of service as approved by the PSC from time to time and then in effect.
2. No connections are to be made to the System unless approved by Utility.
3. From and after the Closing, Utility warrants and agrees that it shall provide all owners within the Development with good, adequate and customary water utility service at reasonable rates, such rates to have been approved by the PSC. Utility further warrants and represents that it shall operate, maintain and repair the System promptly and in a good and workmanlike manner and in such a manner as to not impair its ability to fulfill its obligation to provide good, adequate and customary water utility service to the Development.
4. Owners and/or water user's in the Development shall apply for water service and agree to the terms of the "Application for Water Service and Water User's Agreement", Exhibit "B".

SECTION TWELVE
MISCELLANEOUS

1. No waiver of any breach of any covenant or provision herein contained shall be deemed a waiver of any preceding or succeeding breach thereof, or any other covenant or provision herein contained. No extension of time for

performance of any obligation or act shall be deemed an extension of the time for performance of any other obligation or act.

2. In the event of the bringing of any action or suit by a party hereto against another party by reason of any breach of any of the covenants, agreements, or provisions on the part of any party arising out of this Agreement, then, in that event, the prevailing party shall be entitled to have and to recover of and from the other party all costs and expenses of the action or suit, including reasonable attorney's fees and any other professional fees resulting therefrom.
3. The parties hereby acknowledge and agree that time is strictly of the essence with respect to each and every term, condition, obligation, and provision hereof and that failure to perform timely any of the terms, conditions, obligations or provisions hereof by any party shall constitute a material breach thereof and a noncurable (but waivable) default under this Agreement by the parties so failing to perform.
4. The parties hereto acknowledge that this Agreement has been negotiated and entered into in the State of South Carolina. The parties expressly agree that this Agreement shall be governed by, interpreted under, and construed and enforced in accordance with the laws of the State of South Carolina.
5. The representations, warranties, rights, duties, agreements and obligations of the parties provided in this Agreement shall survive the Closing, and this Agreement shall specifically survive the Closing.
6. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
7. This Agreement can only be amended or supplemented by a written agreement signed by the parties hereto. It may not be orally modified or changed.

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Witnesses as to Sellers:

Jennifer Ham
Print Name: Jennifer Ham
11-01-16

Pamela Scruggs
Print Name: Pamela Scruggs

Nancy Darnell
Print Name: Nancy Darnell

Dr. Steve Bridges
Print Name: Dr. Steve Bridges

Harts Cove Home Owner's Association

BY: W. Wallace W. Martell
Printed Name: W. Wallace W. Martell
ITS: President

Tory Pointe Home Owner's Association

BY: Thomas Cox
Printed Name: J. Thomas Cox
ITS: President

Witnesses as to Buyer:

Blanca Silver
Print Name: Blanca Silver

Sheila Tinsley
Print Name: Sheila Tinsley

JACABB Utilities, LLC

BY: Stephen R. Goldie
Printed Name: Stephen R. Goldie
ITS: Managing Owner

EXHIBIT "A"

I. List of Assets of the System Being Transferred

1. Sub-metering system including all meters, repeaters, and transmitters
2. Distribution system – water mains and appurtenances
 - a. 8" DIP water line – approximately 3,150 lf
 - b. 6" water line – approximately 742 lf
 - c. 4" water line – approximately 390 lf
 - d. 3" water line – approximately 460 lf
3. 8 fire hydrants
4. Miscellaneous appurtenances

II. Easements Being Transferred and Conveyed

Easement from Sellers to Utility along all roads and rights-of-way owned by the Sellers in Harts Cove and Tory Pointe Development for ingress and egress to and from all the lots within the Development and for the purpose of having access to those components of the System that are within said rights-of-way for purposes of upkeep, maintenance, repair and replacement.

EXHIBIT “B”

**Application for Water
Service and Water User's
Agreement**

JACABB UTILITES, LLC
Application for Water Service and Water User's Agreement

TO: JACABB UTILITIES, LLC
210 W. North Second Street
Seneca, South Carolina 29678

The undersigned applicant, as owner of the condominium unit described and identified herein below, hereby requests to be supplied with water service for residential purposes, and the applicant/owner agrees to pay for such service and to the other terms and conditions set out herein below:

1.) The owner, owner's tenants, and other occupants agree to indemnify and hold JACABB Utilities, LLC ("Utility") harmless from any loss or damage that may directly or indirectly be occasioned by use or maintenance of the utility service line, meter, and/or connection to the Utility's water main.

2.) As necessity may arise in case of a break in a water main, pipe, or other conduit, or in case of an emergency or for other unavoidable cause, the Utility may temporarily cut off the water supply, without notice, in order to make necessary repairs, connections, or the like. In the event of discontinuance of water service, the Utility shall not be liable for any damages or inconvenience suffered by the owner, owner's tenants, or other occupants, or for any claim against it at any time for interruption in service, lessening of the supply,

inadequate pressure, or for causes reasonably beyond the Utility's control.

3.) The applicant/owner agrees to purchase from the Utility, and the Utility hereby agrees to sell and deliver to the applicant/owner, water service required for the applicant/owner's premises all in accordance with the rates and charges as legally established, and on file with the South Carolina Public Service Commission and in accordance with the rules and regulations of the South Carolina Public Service Commission.

4.) The applicant/owner/tenant agrees to pay, when due, all charges made by the Utility for water service provided to the property described herein, including any assessments levied or to be levied against the property described herein and any connection or reconnection charges that have not been previously paid.

5.) A late payment charge of one and one-half percent (1½%) shall be added to any unpaid balance not paid within twenty-five (25) days of the billing date.

Service Address: _____

Owner (Print): _____

Signature: _____ Date: _____

Witness: _____ Date: _____

EXHIBIT "C"

Utility Plan Drawings



Britt,
Peters &
Associates,
INC.

Consulting Engineers
840 S. Pennsylvania Dr.
Suite 200
Greenville, SC 29607
(864) 271-4669
FAX (864) 233-5740
www.bpa-engineers.com

JOB TITLE

HART'S COVE

PHASE II

DOUGLAS COUNTY

THE PROJECT IS A PHASE II DEVELOPMENT OF THE HART'S COVE INDUSTRIAL PARK. THE PROJECT CONSISTS OF THE CONSTRUCTION OF A NEW 100,000 SQ. FT. INDUSTRIAL BUILDING, A NEW 10,000 SQ. FT. INDUSTRIAL BUILDING, A NEW 5,000 SQ. FT. INDUSTRIAL BUILDING, A NEW 2,500 SQ. FT. INDUSTRIAL BUILDING, A NEW 1,250 SQ. FT. INDUSTRIAL BUILDING, A NEW 625 SQ. FT. INDUSTRIAL BUILDING, A NEW 312 SQ. FT. INDUSTRIAL BUILDING, A NEW 156 SQ. FT. INDUSTRIAL BUILDING, A NEW 78 SQ. FT. INDUSTRIAL BUILDING, A NEW 39 SQ. FT. INDUSTRIAL BUILDING, A NEW 19 SQ. FT. INDUSTRIAL BUILDING, A NEW 9 SQ. FT. INDUSTRIAL BUILDING, A NEW 4 SQ. FT. INDUSTRIAL BUILDING, A NEW 2 SQ. FT. INDUSTRIAL BUILDING, A NEW 1 SQ. FT. INDUSTRIAL BUILDING, A NEW 0.5 SQ. FT. INDUSTRIAL BUILDING, A NEW 0.25 SQ. FT. INDUSTRIAL BUILDING, A NEW 0.125 SQ. FT. INDUSTRIAL BUILDING, A NEW 0.0625 SQ. FT. INDUSTRIAL BUILDING, A NEW 0.03125 SQ. FT. INDUSTRIAL BUILDING, A NEW 0.015625 SQ. FT. INDUSTRIAL BUILDING, A NEW 0.0078125 SQ. FT. 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**Britt,
Peters &
Associates,
INC.**
Consulting Engineers:
880 S. Mainburg Drive
Suite 2C
Greenville, SC 29607
DM-47 (274-8869)
FAX (274-83140)
www.brittpeters.com

JOB TITLE	
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**HART'S
COVE**

PLACE IN

MI 704117

OCONEE COUNTY

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[illegible]

AM	
JM	ONS

NO
MATTER HOW

WILSON & JENKINS

CONFIDENTIAL

DATE	10/03/01

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UTILITY

PLAN

Age Group	1970	1980	1990	2000	2010	2020
0-14	25	22	18	15	12	10
15-24	20	18	15	12	10	8
25-34	15	12	10	8	6	5
35-44	10	8	6	5	4	3
45-54	8	6	5	4	3	2
55-64	5	4	3	2	1	1
65-74	3	4	5	6	8	12
75+	5	8	12	15	20	25

DRAWN	WBL
DESIGNED	JAC

[illegible]

SHEET No. 3

1

NORTH

\square See on ~~date~~ 11/12/01



GOLF: 1 YARD = 36 IN.

[illegible]

LEGEND

EXISTING PROPOSED

[illegible]

*****CAUTION*****

ALL EXISTING UTILITIES SHOWN ARE THE BEST INFORMATION AVAILABLE. THE CONTRACTOR SHALL VERIFY ALL UTILITY LOCATIONS AND DEPTHS PRIOR TO ANY CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND FOR ANY DAMAGE TO EXISTING UTILITIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE LOCATION OF ALL UTILITIES CONCERNING THE LOCATION OF UTILITY LINES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE LOCATION OF ANY DAMAGE TO EXISTING UTILITIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE LOCATION OF ANY DAMAGE TO EXISTING UTILITIES.

“EXHIBIT B”

**Amendment One to the Water System Asset Purchase Agreement
with Harts Cove and Tory Pointe Homeowner’s Association**

FIRST AMENDMENT TO WATER SYSTEM ASSET PURCHASE AGREEMENT

THIS FIRST AMENDMENT TO WATER SYSTEM ASSET PURCHASE AGREEMENT (the "First Amendment") is made and entered into by and between Harts Cove and Tory Pointe Home Owner's Associations, associations organized and existing under the laws of South Carolina ("Sellers") and JACABB Utilities, LLC, a South Carolina limited liability company ("Buyer").

WITNESSETH:

WHEREAS, Buyer and Seller entered into that certain Water System Asset Purchase Agreement dated June 13, 2013 (the "Agreement"), providing for the purchase and sale of the water system owned by Sellers; and

WHEREAS, the parties are desirous of amending the Agreement as herein set forth below and wish to enter into this First Amendment for such purpose;

NOW, THEREFORE, in consideration of the premises, ONE DOLLAR (\$1.00), AND OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH IS HEREBY ACKNOWLEDGED, Seller and Buyer do hereby agree as follows:

1.

The sewer service for the Subdivision is provided by Seneca Light & Water and is billed to the Sellers on a monthly basis. The Sellers desire the Buyer to bill the individual homeowners and/or customer within the Subdivision their share of the sewer based on the homeowner's water usage on a monthly basis.

The Buyer agrees to bill each homeowner and/or customer their portion of the sewer fees based on the homeowners and/or customers water use. The sewer rate charged will be a pass-through of the current Seneca Light & Water's rate, in effect from time to time.

The Buyer agrees to collect and process the sewer payments from the homeowners and/or customers and to send one check, per month, for the amount collected during that month to Harts Cove Homeowner's Association

The Buyer will charge a \$2.50 monthly billing fee to each homeowner and/or customer for the purpose of calculating, collecting and processing of the sewer fees.

The Sellers agree to the Buyer calculating, collecting and processing the sewer portion of the Seneca Light & Water sewer bill to each of the homeowners and/or customers.

The Sellers also agree to the \$2.50 monthly billing fee for each homeowner and/or customer.

The Parties agree that any future increases in the billing fee will be approved by amending the Water System Asset Purchase Agreement and will become effective upon receiving the approval of the Public Service Commission of South Carolina.

The Parties agree that the Buyer will not be responsible for the disconnection of sewer service due to non-payment of the sewer fees. However, water service will be disconnected for non-payment of water service in accordance with the rules and regulations of the Public Service Commission of South Carolina.

Sellers are solely responsible for the payment to Seneca Light & Water for the sewer service regardless of the amount collected from the homeowners and/or customers.

All other terms and provisions of the Agreement not herein specifically amended shall remain in full force and effect, the same as if such terms and provisions were restated herein in their entirety.

IN WITNESS WHEREOF, the undersigned parties have hereunto set their hands as of the date of the last to sign as set forth below.

WITNESSES as to Sellers:

Jennifer Ham
Print Name: Jennifer Ham

Pamela Scruggs
Print Name: Pamela Scruggs

Renée Jeffers
Print Name: Renée Jeffers

Patricia Gibson
Print Name: Patricia Gibson

WITNESSES as to Buyer:

Berinda Siler
Print Name: Berinda Siler

Sheila Tinsley
Print Name: Sheila Tinsley

SELLERS:

Harts Cove Home Owner's Association

By: Wallace W. Martell
Wallace W. Martell, President

Date: 8/12/13

Tory Pointe Home Owner's Association

By: J. Thomas Cox
J. Thomas Cox, President

Date: 8/17/2013

BUYER:

JACABB Utilities, LLC,

By: Stephen R. Goldie
Stephen R. Goldie, Managing Owner

Date: 9/11/13

“Exhibit C”

Clemson University Letter of Intent to Contract with JACABB Utilities, LLC

CLEMSON UNIVERSITY

March 18, 2013

**JACABB Utilities, LLC
210 W. North Second Street
Seneca, South Carolina 29678**

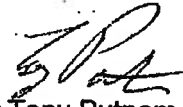
I am writing this Letter of Intent to Contract with JACABB Utilities, LLC for continued delivery of potable water to Harts Cove Home Owner's Association (HOA) from Clemson University's Public Water System # 3910006.

Water will be supplied from the Clemson University's 10-inch water line which currently serves Harts Cove HOA property and the former Jacob's Manufacturing (Jacob's Chuck) facility. The delivery point is the current meter pit at the entrance to Harts Cove. Proposed contract rates for wholesale water will be based on Clemson University's cost from the original supplier of said water and reasonable system-wide distribution costs by Clemson University and will not be any higher than that imposed internally at Clemson University.

Potable water delivery contracting is forthcoming and will be subject to approval of the water system asset sale and operation by Harts Cove HOA, South Carolina Department of Health and Environmental Control ("DHEC") and the South Carolina Public Service Commission ("PSC").

Please do not hesitate to contact me for further information.

Sincerely,



**Tony Putnam, P.E.
Director of Utility Services**

Copy: Wallace Martell, Harts Cove HOA



**UNIVERSITY FACILITIES
310 KLUGH AVENUE
BOX 345904
CLEMSON, SC 29634-5904
(864) 656-2186 FAX (864) 656-0793**